

CLOSED

**U.S. District Court**  
**Northern District of New York – Main Office (Syracuse) [LIVE – Version 6.0]**  
**(Binghamton)**  
**CRIMINAL DOCKET FOR CASE #: 3:05-cr-00270-TJM-1**

Case title: USA v. Falso  
Related Case: 3:10-cv-01181-TJM  
Magistrate judge case number: 3:05-mj-00201-DEP

Date Filed: 06/16/2005  
Date Terminated: 06/06/2006

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Assigned to: Senior Judge Thomas J.  
McAvoy

Appeals court case numbers:  
'06-2721-cr' 'Second Circuit', 11-0430  
2nd Circuit

**Defendant (1)**

**David J. Falso**  
*TERMINATED: 06/06/2006*  
*also known as*  
Sealed Premise  
*TERMINATED: 06/06/2006*

represented by **Bruce R. Bryan**  
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333 East Onondaga Street  
Suite 600  
Syracuse, NY 13202  
315-476-1800  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Retained*

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*TERMINATED: 10/13/2005*  
**LEAD ATTORNEY**  
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*TERMINATED: 01/22/2006*

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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
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**Pending Counts**

COERCION OR ENTICEMENT OF  
MINOR FEMALE  
(1-2)

SELLING OR BUYING OF  
CHILDREN  
(3-10)

ACTIVITIES RE MATERIAL  
CONSTITUTING/CONTAINING  
CHILD PORNO  
(11-241)

ACTIVITIES RE MATERIAL  
CONSTITUTING/CONTAINING  
CHILD PORNO  
(242)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Highest Offense Level (Terminated)**

None

**Complaints**

18:2252A.F Possession, Receipt  
&Transmission of Child Pornography,  
18:2251A.F, 18:2423(b).F,  
18:2423(c).F

**Disposition**

Deft committed to BOP for a term of imprisonment of 30 years on cts 1 &2; 30 years on cts 3 thru 10; 30 years on cts 11 thru 241; and, 20 years on ct 242, all counts to run concurrently. Total term of imprisonment is 30 years. Supervised Release of 10 years on each ct 1 thru 242, to run concurrently with each other. Forfeiture ordered. Special Conditions imposed. Total Special Assessment of \$24,200 & Fine of \$25,000 imposed & due immediately

As referenced in count 1

As referenced in count 1

As referenced in count 1

**Disposition**

**Disposition**

**Plaintiff**

USA

represented by **Miroslav Lovric**  
Office of United States Attorney –  
Binghamton

15 Henry Street  
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**ATTORNEY TO BE NOTICED**

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**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
06/01/2005		Search Warrant Issued in case as to Sealed Premises (amt, ) [3:05-mj-00201-DEP] (Entered: 06/01/2005)
06/08/2005	<u>3</u>	COMPLAINT as to David J Falso (1) w/ REDACTED supporting affidavit (cml) Modified on 6/9/2005 to reflect proper docket # (cml). [3:05-mj-00201-DEP] (Entered: 06/09/2005)
06/08/2005		Arrest of David J Falso (cml) [3:05-mj-00201-DEP] (Entered: 06/09/2005)
06/08/2005	<u>4</u>	Minute Entry: VIDEO-CONF INITIAL APPEARANCE as to David J Falso held 6/8/2005 bef MJ Peebles in Syracuse, NY (w/ Binghamton, NY): APP: AUSA Miroslav Lovric for Govt; ACPD David Secular for Deft; USPO Michael Pierce; CRD/sal. Deft appears on criminal complaint & advised rights and maximum penalties. Financial affidavit reviewed however deft advises he's in the process of retaining own counsel; deft instructed to advise his atty immediately re: next court hearing. Govt moves for detention - RESERVED; Detention Hearing s/f 6/10/2005 at 10:00 AM in Binghamton, NY before MJ Peebles. Deft remanded pending detention hrg. (cml) [3:05-mj-00201-DEP] (Entered: 06/09/2005)
06/09/2005	<u>2</u>	UNSEALING Order to Unseal Case as to Sealed Premises with the exception of document 1 which shall remain sealed . Signed by Judge David E. Peebles on 6/9/05. (sfp, ) [3:05-mj-00201-DEP] (Entered: 06/09/2005)
06/09/2005	<u>5</u>	Search Warrant Returned Executed on 6/8/05 in case as to David J Falso; (redacted version). (sfp, ) [3:05-mj-00201-DEP] (Entered: 06/09/2005)
06/10/2005		Attorney update in case as to David J Falso. Retained Attorney Mark D. Suben for David J Falso added. (amt, ) [3:05-mj-00201-DEP] (Entered: 06/10/2005)
06/10/2005	<u>6</u>	SUPERSEDING COMPLAINT as to David J Falso. (Redacted version) (sfp, ) [3:05-mj-00201-DEP] (Entered: 06/10/2005)
06/10/2005	<u>7</u>	Minute Entry for proceedings held before Judge David E. Peebles :Detention Hearing/Initial Appearance on Superseding Complaint as to David J Falso held on 6/10/2005; App: M. Lovric, AUSA, for Govt; M. Suben, Esq., retained by Deft; Deft ordered remanded; Court to issue written decision (Tape or CD #2005-002) (amt, ) [3:05-mj-00201-DEP] (Entered: 06/10/2005)
06/16/2005	<u>8</u>	ORDER OF DETENTION as to David J Falso . Signed by Judge David E. Peebles on 6/16/05. (kcl, ) [3:05-mj-00201-DEP] (Entered: 06/16/2005)
06/16/2005	<u>9</u>	INDICTMENT as to David J Falso (1) count(s) 1-2, 3-10, 11-242 plus forfeiture allegations. (sfp, ) (Entered: 06/16/2005)

06/16/2005		Indictment 9 was previously uploaded incorrectly; document was deleted and redocketed and given the same document number, as to David J Falso (sfp, ) (Entered: 06/16/2005)
06/16/2005	<u>11</u>	NOTICE of Lis Pendens as to David J Falso filed by USA. (Imp) (Entered: 06/17/2005)
06/17/2005	<u>10</u>	NOTICE OF ATTORNEY APPEARANCE Carl J. Boykin appearing for USA as co-counsel handling criminal forfeiture aspect of case with/for Attorney: Miroslav Lovric (Boykin, Carl) (Entered: 06/17/2005)
06/17/2005	<u>12</u>	DISCOVERY DISCLOSURE STATEMENT as to David J Falso <i>Government summary of discovery provided to defendant via his attorney</i> (Lovric, Miroslav) (Entered: 06/17/2005)
06/22/2005	<u>13</u>	NOTICE to Atty. Suben as to David J Falso of filing of Indictment with waiver form enclosed. (Imp) (Entered: 06/22/2005)
07/07/2005	<u>14</u>	Minute Entry for proceedings held before Judge David E. Peebles by video:Arraignment as to David J Falso (1) Count 1-2,3-10,11-242 held on 7/7/2005, Plea entered by David J Falso Not Guilty on counts 1-242. (Tape #VC-12) (Imp) (Entered: 07/07/2005)
07/07/2005	<u>15</u>	CRIMINAL PRETRIAL SCHEDULING ORDER as to David J Falso: Motions to be filed by 8/4/2005. Jury Trial set for 8/15/2005 10:00 AM in Binghamton before Judge Thomas J. McAvoy. Signed by Judge David E. Peebles on 7/7/05. (Imp) (Entered: 07/07/2005)
07/15/2005	<u>16</u>	DISCOVERY DISCLOSURE STATEMENT as to David J Falso <i>Summary of discovery materials sent by the government to defendant</i> (Lovric, Miroslav) (Entered: 07/15/2005)
07/21/2005	<u>17</u>	STIPULATION/ORDER TO CONTINUE under Ends/Justice 18:3161(h)(8)(A)as to David J Falso excluding 90 days from date/order; and, resetting Motion Filing ddl 11/02/05 w/ motions t/b/m ret at 12/12/05 MC; and, setting Govt Opposition Response ddl 11/18/05; and, resetting Jury Trial for 11/28/2005 at 10:00 AM in Binghamton, NY before Judge McAvoy; Signed by Judge Thomas J. McAvoy dtd 7/21/05 (cml) (Entered: 07/21/2005)
07/29/2005	<u>18</u>	DISCOVERY DISCLOSURE STATEMENT as to David J. Falso <i>Summary of discovery materials sent to defense counsel by the government</i> (Lovric, Miroslav) (Entered: 07/29/2005)
09/01/2005	<u>19</u>	ORDER re: detention issues as to David J. Falso; Detention reconsideration Hearing set for 9/9/2005 10:00 AM in Binghamton before Magistrate Judge David E. Peebles; Clerk is directed to docket the petition for pretrial release, a portion of which, namely the report Dr. Vallelonga and Dr. Lesswing, shall be filed under seal with the Court. Signed by Judge David E. Peebles on 9/1/05. (kcl, ) (Entered: 09/07/2005)
09/01/2005	<u>20</u>	NOTICE/APPLICATION FOR PRETRIAL RELEASE (Portion of this document (two letters) to be filed separately under seal) by David J. Falso (kcl, ) (Entered: 09/07/2005)
09/01/2005	21	SEALED DOCUMENT (portion of notice/application directed to be filed under seal) Reports of Dr. Vallelonga and Dr. Lesswing re: support of pretrial release-maintained in Clerk's Office and not available for electronic viewing (kcl, ) (Entered: 09/07/2005)
09/09/2005	<u>22</u>	Minute Entry of Bail Review Hearing held before Judge David E. Peebles in Binghamton; APP: AUSA Miro Lovric; Mark Suben, Esq. for Deft; USPO Mike Pierce; CRD/SP;as to David J. Falso held on 9/9/2005; Defense speaks on behalf of Deft for Release; AUSA requests that Deft be detained; Court RESERVES on decision. [12:00-1:20] (CD #2005-007) (sfp, ) (Entered: 09/09/2005)
09/13/2005	<u>23</u>	LETTER ORDER as to David J. Falso: 2-page Letter Briefs regarding detention due by 9/16/2005 - to be filed under SEAL. Signed by Judge David E. Peebles on 9/13/05. (Imp) (Entered: 09/13/2005)

09/20/2005	<u>24</u>	Letter from USA for USA requesting That Court reject September 19, 2005 defense letter and its argument (Lovric, Miroslav) (Entered: 09/20/2005)
09/20/2005	26	SEALED DOCUMENTS (Letters dd. 9/15/05 and 9/19/05 from defense cnsl. to the Court) – maintained in Clerk's Office and not available for electronic viewing (kcl, ) (Entered: 09/21/2005)
09/20/2005	27	SEALED DOCUMENT (Letter dated 9/15/05 from AUSA w/ attachment to the Court) – maintained in Clerk's Office and not available for electronic viewing (kcl, ) (Entered: 09/21/2005)
09/20/2005	28	Sealed Order to Seal Documents 26 and 27 as to David J. Falso. . Signed by Judge David E. Peebles on 9/20/05. (kcl, ) (Entered: 09/21/2005)
09/21/2005	<u>25</u>	ORDER denying request for reconsideration re: the Court's 6/16/05 Detention Order; Signed by Judge David E. Peebles on 9/20/05. (kcl, ) (Entered: 09/21/2005)
10/13/2005	<u>29</u>	NOTICE OF ATTORNEY APPEARANCE: Thomas R. Cline appearing for David J. Falso as Thomas A. Saitta with/for Attorney: Mark D. Suben <i>Thomas R. Cline appearing for David J. Falso with co-counsel Thomas A. Saitta in place of Attorney Mark D. Suben</i> (Cline, Thomas) (Entered: 10/13/2005)
10/13/2005	<u>30</u>	Certificate of Service by David J. Falso re <u>29</u> Notice of Attorney Appearance – Defendant, (Cline, Thomas) (Entered: 10/13/2005)
10/13/2005		Attorney update in case as to David J. Falso. Attorney Thomas A. Saitta for David J. Falso added. Attorney Mark D. Suben terminated. (sfp, ) (Entered: 10/13/2005)
10/24/2005	<u>31</u>	STIP/ORDER TO CONTINUE – Ends of Justice as to David J. Falso excluding 60 days from the date/order. Jury Trial set for 1/17/2006 10:00 AM in Binghamton before Judge Thomas J. McAvoy. Motions to be filed by 12/28/2005 with motions to be made returnable at 1/27/06 MC. Signed by Judge Thomas J. McAvoy on 10/24/05. (sfp, ) (Entered: 10/24/2005)
12/29/2005	<u>32</u>	STIPULATION/ORDER TO CONTINUE under Ends/Justice as to David J. Falso excluding 7 days from date/order; and, resetting Motion Filing ddl 1/03/06 w/ motions t/b/m ret at 1/27/06 MC per Judge McAvoy; and, resetting Jury Trial for 2/6/2006 at 10:00 AM in Binghamton, NY before Judge McAvoy; Signed by Judge Thomas J. McAvoy dtd 12/28/05 (cml) (Entered: 12/29/2005)
01/03/2006	<u>33</u>	First MOTION for Omnibus Relief by David J. Falso. Motion Hearing set for 1/27/2006 10:00 AM in Binghamton before Judge Thomas J. McAvoy. Response to Motion due by 1/10/2006 Reply to Response to Motion due by 1/17/2006. (Attachments: # <u>1</u> Affidavit Thomas A. Saitta affidavit# <u>2</u> Exhibit(s) Search Warrant application# <u>3</u> Exhibit(s) DeCicco affidavit# <u>4</u> Exhibit(s) Defendant admissions# <u>5</u> Exhibit(s) Falso Affidavit# <u>6</u> Exhibit(s) Indictment# <u>7</u> Exhibit(s) certificate of disposition# <u>8</u> Civil Cover Sheet Cover letter to Court# <u>9</u> Memorandum of Law Memorandum of Law in support of motion)(Saitta, Thomas) (Entered: 01/03/2006)
01/03/2006	<u>34</u>	Certificate of Service by David J. Falso re <u>33</u> First MOTION for Omnibus Relief (Saitta, Thomas) (Entered: 01/03/2006)
01/04/2006		Reset Deadlines re: Deft David J. Falso's <u>33</u> MOTION for Omnibus Relief. Response to Motion due by 1/17/2006, as pursuant to Stip filed 12/29/05. (sfp, ) (Entered: 01/04/2006)
01/04/2006		TEXT NOTICE to parties advising that the response papers to Deft's <u>33</u> Motion for Omnibus relief is reset to 1/17/06 as pursuant to Stip filed 12/29/05. (sfp, ) (Entered: 01/04/2006)
01/04/2006	<u>35</u>	AFFIDAVIT in Support by David J. Falso re <u>33</u> First MOTION for Omnibus Relief (Attachments: # <u>1</u> Exhibit(s) balance of exhibit B to affidavit of Thomas A. Saitta in support of Defendant's Omnibus Motion)(Saitta, Thomas) (Entered: 01/04/2006)
01/17/2006	<u>36</u>	MEMORANDUM OF LAW <i>Government's Memorandum of Law and Exhibits in Response to Defendant Falso's Omnibus Motions</i> (Lovric, Miroslav) (Entered: 01/17/2006)



01/17/2006	<u>37</u>	Letter from USA for USA requesting Permission to file response to defense omnibus motion exceeding page limit (Lovric, Miroslav) (Entered: 01/17/2006)
01/19/2006	<u>38</u>	Letter from Thomas A. Saitta, Esq. counsel for Defendant for David J. Falso requesting Permission to file a Reply to the Government's response to Defendant's Omnibus Motion (Saitta, Thomas) (Entered: 01/19/2006)
01/19/2006	<u>39</u>	Certificate of Service by David J. Falso re <u>38</u> Letter Request <i>for Permission to file Reply</i> (Saitta, Thomas) (Entered: 01/19/2006)
01/20/2006	<u>40</u>	ENDORSED ORDER Granting Deft's <u>38</u> Letter Request with respect to the issue of the search warrant only. Any such reply shall not exceed ten pages and shall be filed with the Court on or bef. 9 AM on 1/23/06 . Signed by Judge Thomas J. McAvoy on 1/20/06. (sfp, ) (Entered: 01/20/2006)
01/22/2006	<u>41</u>	REPLY TO RESPONSE to Motion by David J. Falso re <u>33</u> First MOTION for Omnibus Relief <i>Reply Memorandum</i> (Saitta, Thomas) (Entered: 01/22/2006)
01/22/2006	<u>42</u>	Certificate of Service by David J. Falso re <u>41</u> Reply to Response (Saitta, Thomas) (Entered: 01/22/2006)
01/22/2006	<u>43</u>	NOTICE OF ATTORNEY APPEARANCE: Thomas A. Saitta appearing for David J. Falso as Bruce Bryan, Esq. with/for Attorney: Thomas A. Saitta, Esq. <i>Bruce Bryan Esq., appearing as attorney for defendant Falso with Thomas A. Saitta, Esq.</i> (Saitta, Thomas) (Entered: 01/22/2006)
01/22/2006	<u>44</u>	Certificate of Service by David J. Falso re <u>43</u> Notice of Attorney Appearance – Defendant, (Saitta, Thomas) (Entered: 01/22/2006)
01/23/2006		Attorney update in case as to David J. Falso. Attorney Bruce R. Bryan for David J. Falso added. (sfp, ) (Entered: 01/23/2006)
01/24/2006	<u>45</u>	Minute Entry: SPECIAL MOTION TERM as to David J. Falso held 1/24/2006 bef Judge McAvoy in Binghamton, NY: APP: AUSA Miroslav Lovric for Govt; Thomas Saitta & Bruce Bryan, Esqs. for Deft; CR: V. Theleman; LC/SE; CRD/cml. Deft's <u>33</u> Omnibus MOTION – GRANTED IN PART / DENIED IN PART / RESERVED IN PART; Evidentiary Hearing re: suppress stmts set for 1/30/2006 at 10:00 AM in Binghamton, NY. The 2/06/06 jury trial remains as scheduled. (cml) (Entered: 01/24/2006)
01/24/2006		ORAL BENCH ORDER granting in part / denying in part deft's <u>33</u> Motion for Omnibus Relief in that the Court agrees with the deft that Section 2251(a) does not have extraterritorial effect. However, whether there was any conduct within the territorial boundaries of the statute must await the proof at trial. The motion to dismiss on the grounds of the statute of limitations is denied with leave to move for appropriate relief after the proof at trial. The Govt may be able to offer evidence from which the jury could conclude that Deft engaged in illegal acts w/in the applicable time frame. The motion to dismiss on the ground that the definitions used in the statutes at issue here are unconstitutional is denied. The motion to suppress the evidence obtained as a result of the search warrant is denied. The court reserves judgment on the motion to suppress any statements until after an evidentiary hearing. The Court denies Deft's motion strike his prior conviction from the Indictment or to preclude its use as a statutory sentencing enhancement. This constitutes the decision of the Court; no written order to follow; so entered by SUSDJ Thomas J. McAvoy on 1/24/06 (cml) (Entered: 01/24/2006)
01/24/2006	<u>46</u>	COURT NOTICE as to David J. Falso dtd 1/24/06 setting Evidentiary Suppression Hearing for 1/30/2006 at 10:00 AM in Binghamton, NY before Judge McAvoy (cml) (Entered: 01/24/2006)
01/27/2006	<u>47</u>	Minute Entry: IN-CHAMBERS PRETRIAL CONF as to David J. Falso held 1/27/2006 bef Judge McAvoy in Binghamton, NY: APP: AUSA Miroslav Lovric for Govt; Thomas Saitta, Esq. for Deft; CR: None; CRD/cml. Discussion had re: procedural issues involving potential plea disposition. Atty Saitta to advise court whether client is inclined to accept plea resolution in this matter. Hearing(s) & trial remain as scheduled. (cml) (Entered: 01/27/2006)

01/27/2006	<u>51</u>	Minute Entry: MOTION CALENDAR as to David J. Falso held 1/27/2006 bef Judge McAvoy in Binghamton, NY: APP: None; CR: V. Theleman; LC/SE; CRD/mp. Deft's <u>33</u> First MOTION for Omnibus Relief – ENTERTAINED at 1/24/06 Special Motion term. (cml) (Entered: 01/30/2006)
01/30/2006	<u>48</u>	Minute Entry: SUPPRESSION EVIDENTIARY HEARING as to David J. Falso held 1/30/2006 bef Judge McAvoy in Binghamton, NY: APP: AUSA Miroslav Lovric for Govt; Thomas Saitta, Esq. for Deft; CR: V. Theleman; CRD/cml. GOVT WITNESS: James T. Lyons & Daniel Capone, III. DEFENSE WITNESS: David John Falso. Evidence closed. Each side make closing stmt. Judge makes findings upon the record & DENIES deft's motion/suppress stmts. (cml) (Entered: 01/30/2006)
01/30/2006	<u>49</u>	GOVT EXECUTED SUPPRESSION HEARING EXHIBIT LIST as to David J. Falso (cml) (Entered: 01/30/2006)
01/30/2006	<u>50</u>	DEFT EXECUTED SUPPRESSION HEARING EXHIBIT LIST by David J. Falso (cml) (Entered: 01/30/2006)
01/31/2006	<u>52</u>	COURT NOTICE as to David J. Falso dtd 1/31/06 setting Change of Plea Hearing for 2/1/2006 at 9:30 AM in Binghamton, NY before Judge McAvoy (cml) (Entered: 01/31/2006)
02/01/2006	<u>53</u>	Minute Entry: CHANGE OF PLEA as to David J. Falso held 2/1/2006 bef Judge McAvoy in Binghamton, NY: APP: AUSA Miroslav Lovric for Govt; Thomas Saitta, Esq. for Deft; CR: V. Theleman; CRD/cml. Deft Falso changes plea to GUILTY to All Indictment Cts 1 thru 242 and admits to forfeiture allegation; Court accepts plea. PSR ordered. Parties hand up filing re: right/appeal. SENTENCING s/f 6/02/06 at 9:30 AM in Binghamton, NY. Deft remanded to USM. (cml) (Entered: 02/01/2006)
02/01/2006	<u>54</u>	STIPULATION/ORDER as to David J. Falso re: reservation of issues for appeal; Signed by Judge Thomas J. McAvoy dtd 2/01/06 (cml) (Entered: 02/01/2006)
02/01/2006	<u>55</u>	GUIDELINE ORDER as to David J. Falso setting Sentencing for 6/2/2006 at 9:30 AM in Binghamton, NY before Judge McAvoy. Govt & Defense Sentencing Memos ddl 5/19/2006; Signed by Judge Thomas J. McAvoy dtd 2/01/06 (cml) (Entered: 02/01/2006)
02/02/2006	<u>56</u>	ORDER denying Deft David J. Falso's motion to suppress statements made by Falso to law enforcement . Signed by Judge Thomas J. McAvoy on 2/1/06. (sfp, ) (Entered: 02/02/2006)
04/10/2006	<u>57</u>	STIPULATED PRELIMINARY ORDER DIRECTING FORFEITURE OF PROPERTY as to David J. Falso . Signed by Judge Thomas J. McAvoy on 4/6/06. (sfp, ) (Entered: 04/10/2006)
04/11/2006	<u>58</u>	RECORD of Proceedings as to David J. Falso: Motion Hearing held on 1/24/06 before Judge McAvoy, Court Reporter: Vicky A. Theleman. IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Redact with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at <a href="http://www.nynd.uscourts.gov">www.nynd.uscourts.gov</a> . <u>Read this policy carefully</u> . If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal data identifiers is not necessary and the transcript will be made available on the web. Notice of Intent to Redact due by 4/18/2006 (vat, ) Modified on 4/11/2006 (amt, ). (Entered: 04/11/2006)
04/11/2006		CLERK'S CORRECTION OF DOCKET ENTRY; Text of <u>58</u> Record of Proceedings amended to reflect proceeding is a motion hearing and not a suppression hearing (amt, ) (Entered: 04/11/2006)
04/11/2006	<u>59</u>	RECORD of Proceedings as to David J. Falso: Suppression Hearing held on 1/30/06 before Judge McAvoy, Court Reporter: Vicky A. Theleman. IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Redact with the Clerk's Office within 5 business days of this date. The

		policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov. <u>Read this policy carefully.</u> If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal data identifiers is not necessary and the transcript will be made available on the web. Notice of Intent to Redact due by 4/18/2006 (vat, ) (Entered: 04/11/2006)
04/11/2006	<u>60</u>	RECORD of Proceedings as to David J. Falso: Change of Plea held on 2/1/06 before Judge McAvoy, Court Reporter: Vicky A. Theleman. IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Redact with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov. <u>Read this policy carefully.</u> If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal data identifiers is not necessary and the transcript will be made available on the web. Notice of Intent to Redact due by 4/18/2006 (vat, ) (Entered: 04/11/2006)
04/24/2006	<u>61</u>	PROCESS RECEIPT AND RETURN of US Marshal Returned Executed as to \$62,000 US Currency on 4/10/06 per Stipulated Prelim Order filed by USA. (Imp) (Entered: 04/24/2006)
04/24/2006	<u>62</u>	PROCESS RECEIPT AND RETURN of US Marshal Returned Executed as to Computer Equipment, etc. on 4/20/06 per Stipulated Prelim Order filed by USA. (Imp) (Entered: 04/24/2006)
05/09/2006	<u>63</u>	TRANSCRIPT of Proceedings as to David J. Falso: Motion held on 1/30/06 before Judge McAvoy, Court Reporter: Vicky A. Theleman. (vat, ) (Entered: 05/09/2006)
05/09/2006	<u>64</u>	TRANSCRIPT of Proceedings as to David J. Falso: Suppression Hearing held on 1/30/06 before Judge McAvoy, Court Reporter: Vicky A. Theleman. (vat, ) (Entered: 05/09/2006)
05/09/2006	<u>65</u>	TRANSCRIPT of Proceedings as to David J. Falso: Change of Plea held on 2/1/06 before Judge McAvoy, Court Reporter: Vicky A. Theleman. (vat, ) (Entered: 05/09/2006)
05/16/2006	<u>66</u>	Letter from Thomas A. Saitta, Esq. as to David J. Falso requesting Extension of Time to file Sentencing Memorandum (Saitta, Thomas) (Entered: 05/16/2006)
05/16/2006	<u>67</u>	Certificate of Service by David J. Falso re <u>66</u> Letter Request <i>for extension to file Defendant's Sentencing Memoradum</i> (Saitta, Thomas) (Entered: 05/16/2006)
05/16/2006	<u>68</u>	ENDORSED ORDER as to David J. Falso granting Deft's <u>66</u> Letter Request for extension of time to file Sent. memo. Defendant Sentencing Memo Deadline 5/23/2006. Signed by Judge Thomas J. McAvoy on 5/16/06. (sfp, ) (Entered: 05/16/2006)
05/18/2006	<u>69</u>	First SENTENCING MEMORANDUM by USA as to David J. Falso (Lovric, Miroslav) (Entered: 05/18/2006)
05/22/2006	<u>73</u>	SERVICE by Publication of Order directing forfeiture; Last publication date 5/17/06 in Cortland Standard (kcl, ) (Entered: 05/23/2006)
05/22/2006	<u>74</u>	NOTICE OF PUBLICATION OF FORFEITURE as to David J. Falso (kcl, ) (Entered: 05/23/2006)
05/23/2006	70	SEALED DOCUMENT – maintained in Clerk's Office and not available for electronic viewing (sfp, ) (Entered: 05/23/2006)
05/23/2006	71	Sealing Order to Seal Document as to David J. Falso. . Signed by Judge Thomas J. McAvoy on 5/23/06. (sfp, ) (Entered: 05/23/2006)
05/23/2006	<u>72</u>	Joint WAIVER of Presentence Investigation Report as to David J. Falso (sfp, ) (Entered: 05/23/2006)
05/26/2006	<u>75</u>	Second SENTENCING MEMORANDUM by USA as to David J. Falso (Lovric, Miroslav) (Entered: 05/26/2006)



05/30/2006	<u>76</u>	Letter from Assistant U.S. Attorney Carl J. Boykin as to David J. Falso requesting The Preliminary Order become the Final Order of Forfeiture (Boykin, Carl) (Entered: 05/30/2006)
05/30/2006	<u>77</u>	RELEASE OF LIS PENDENS as to David J. Falso filed by USA. (Imp) (Entered: 05/31/2006)
06/01/2006	<u>78</u>	Supplemental SENTENCING MEMORANDUM by David J. Falso (Saitta, Thomas) (Entered: 06/01/2006)
06/01/2006	<u>79</u>	Certificate of Service by David J. Falso re <u>78</u> Deft. Sentencing Memorandum <i>Supplemental Sentencing Memorandum</i> (Saitta, Thomas) (Entered: 06/01/2006)
06/02/2006	<u>80</u>	Minute Entry: SENTENCING for David J. Falso held 6/02/06 bef Judge McAvoy in Binghamton, NY: APP: AUSA Miroslav Lovric for Govt; Thomas Saitta, Esq. for Deft; SUSPO Bruce Van Tassel o/b/o USPO Kulakowski present; CR: V. Theleman; CRD/cml. Deft sentenced on all 242 cts of Indictment & committed to BOP for a term of imprisonment of 30 years on cts 1 & 2; 30 years on cts 3 thru 10; 30 years on cts 11 thru 241; and, 20 years on ct 242, all counts to run concurrently. Total term of imprisonment is 30 years. Supervised Release of 10 years on each ct 1 thru 242, to run concurrently with each other. Forfeiture ordered. Special Conditions imposed. Total Special Assessment of \$24,200 & Fine of \$25,000 imposed & due immediately. Parties advised appeal rights. Deft remanded to USM. (cml) (Entered: 06/02/2006)
06/02/2006	<u>81</u>	Victim Statement read into record at time of sentencing (cml) (Entered: 06/02/2006)
06/06/2006	<u>82</u>	JUDGMENT as to David J. Falso (1), Count(s) 1–242, Deft committed to BOP for a term of imprisonment of 30 years on cts 1 & 2; 30 years on cts 3 thru 10; 30 years on cts 11 thru 241; and, 20 years on ct 242, all counts to run concurrently. Total term of imprisonment is 30 years. Supervised Release of 10 years on each ct 1 thru 242, to run concurrently with each other. Forfeiture ordered. Special Conditions imposed. Total Special Assessment of \$24,200 & Fine of \$25,000 imposed & due immediately . Signed by Judge Thomas J. McAvoy on 6/6/06. (sfp, ) (Entered: 06/06/2006)
06/08/2006	<u>83</u>	NOTICE OF APPEAL by David J. Falso re <u>82</u> Judgment,, (Saitta, Thomas) (Entered: 06/08/2006)
06/08/2006		USCA Appeal Fees received \$455, receipt number SYR007598 as to David J. Falso re <u>83</u> Notice of Appeal – Final Judgment: (mnm) (Entered: 06/08/2006)
06/08/2006	<u>84</u>	ELECTRONIC NOTICE as to David J. Falso sent to US Court of Appeals re <u>83</u> Notice of Appeal – Final Judgment (sfp, ) (Entered: 06/08/2006)
06/21/2006	<u>85</u>	USCA Scheduling Order as to <u>83</u> Notice of Appeal – Final Judgment filed by David J. Falso,. USCA Case No. 06–2721–cr. Appealed to: Second Circuit. Appeal Record due by 7/6/2006. (sfp, ) (Entered: 06/21/2006)
06/21/2006	<u>86</u>	ELECTRONIC CERTIFICATION of Index of Record on Appeal as to David J. Falso sent to US Court of Appeals re <u>83</u> Notice of Appeal – Final Judgment (sfp, ) (Entered: 06/21/2006)
06/28/2006		Receipt for Payment as to David J. Falso, payment of Special Assessment and Fine for a total of \$ 49,200.00, receipt number SYR7875. (alh) (Entered: 06/28/2006)
02/23/2009	<u>87</u>	MANDATE of USCA, issued 2/20/09, as to David J. Falso's <u>83</u> Appeal, AFFIRMING judgment of the district court. (Attachments: # <u>1</u> slip opinion)(cbm ) (Entered: 02/23/2009)
03/12/2009	<u>88</u>	PROCESS RECEIPT AND RETURN: Filed by the US Marshals o/b/o the USA as to the Final Order of Forfeiture. Asset ID# 05–FBI–003280 was transferred on 6/8/2006. Date of service 3/12/2009. (mae) (Entered: 03/12/2009)
06/29/2009	<u>89</u>	PROCESS RECEIPT AND RETURN: Filed by the US Marshals o/b/o the USA as to the Final Order of Forfeiture. Asset ID# 05–FBI–003281 was destroyed at UNICOR on 6/19/2009. Date of service 6/29/2009. (mae) (Entered: 06/30/2009)

10/01/2010	<u>90</u>	MOTION to Vacate under 28 U.S.C. 2255 by David J. Falso. (Attachments: # <u>1</u> Affirmation Attorney's Affirmation in Support of Motion to Vacate, # <u>2</u> Exhibit(s) Exhibits – Volume I, # <u>3</u> Exhibit(s) Exhibits – Volume II, # <u>4</u> Memorandum of Law Memorandum of Law in support of Motion to Vacate)(Porter, J.) Civil case 3:10-cv-01181-TJM opened. (Entered: 10/01/2010)
10/14/2010		TEXT ONLY NOTICE directing GOVT RESPONSE PAPERS t/b submitted no later than 11/30/10 re: deft Falso's <u>90</u> MOTION to Vacate under 28 U.S.C. 2255 bef Sr. District Judge Thomas J. McAvoy (cml) (Entered: 10/14/2010)
11/30/2010	<u>91</u>	MEMORANDUM OF LAW <i>And Exhibits. Exhibits 3 &amp; 4 filed under seal.</i> (Attachments: # <u>1</u> Exhibit(s) Ex1, # <u>2</u> Exhibit(s) Ex2, # <u>3</u> Exhibit(s) Ex5, # <u>4</u> Exhibit(s) Ex6, # <u>5</u> Exhibit(s) Ex7, # <u>6</u> Exhibit(s) Ex8)(Lovric, Miroslav) (Entered: 11/30/2010)
12/01/2010	<u>92</u>	GOVT'S SEALED EXHIBITS 3 AND 4 re: <u>91</u> Response to Motion – maintained in Clerk's Office and not available for electronic viewing (sfp, ) (Entered: 12/01/2010)
12/01/2010	<u>93</u>	Sealing Order to Seal Document 92. Signed by Senior Judge Thomas J. McAvoy on 12/1/10. (sfp, ) (Entered: 12/01/2010)
12/03/2010	<u>94</u>	Letter from J. Scott Porter as to David J. Falso requesting permission to file a reply memorandum of law on or before December 24, 2010 (Porter, J.) (Entered: 12/03/2010)
12/06/2010	<u>95</u>	ENDORSED ORDER granting <u>94</u> Letter Request for petitioner, David Falso, to file a reply memo of law not to exceed 10 pages on or before 12/24/10. Signed by Senior Judge Thomas J. McAvoy on 12/6/10. (sfp, ) (Entered: 12/06/2010)
12/23/2010	<u>96</u>	REPLY TO RESPONSE to Motion by David J. Falso re <u>90</u> MOTION to Vacate under 28 U.S.C. 2255 <i>and certificate of service</i> (Porter, J.) (Entered: 12/23/2010)
01/04/2011	<u>97</u>	DECISION AND ORDER denying Deft, David J. Falso's <u>90</u> Motion to Vacate (2255) and any request for a COA is denied. Signed by Senior Judge Thomas J. McAvoy on 1/4/11. (sfp, ) Civil Case 3:10-cv-01181-TJM closed. (Entered: 01/04/2011)
01/28/2011	<u>98</u>	NOTICE OF APPEAL by David J. Falso re <u>97</u> Order on Motion to Vacate (2255). Filing fee \$455.00, receipt number 0206-1771370. filed by Attorney J. Scott Porter. (sfp, ) (Entered: 01/31/2011)
01/31/2011	<u>99</u>	ELECTRONIC NOTICE AND CERTIFICATION as to David J. Falso sent to US Court of Appeals re <u>98</u> Notice of Appeal – Final Judgment (sfp, ) (Entered: 01/31/2011)
03/01/2011		USCA Case Number is 11-0430 for <u>98</u> Appeal filed by David J. Falso. (cbm ) (Entered: 03/01/2011)
03/29/2011	<u>100</u>	Certified and Transmitted Record on Appeal as to David J. Falso to US Court of Appeals re <u>98</u> Notice of Appeal – Final Judgment consisting of the following original documents, Docket No(s): SEALED DOCUMENTS 1, 21, 26-28, 70, 71, 92, 93 are being mailed via UPS to US Court of Appeals-Second Circuit, Attention: Vincenza Mathias. (sfp, ) (Entered: 03/29/2011)
09/23/2011	<u>101</u>	MANDATE of USCA, issued 6/14/11, as to David J. Falso 's <u>98</u> appeal: denying COA and dismissing appeal. (cbm ) (Entered: 09/23/2011)
04/17/2012		Appeal Record Returned as to David J. Falso: Documents 1, 21, 26-28, 70, 71, 92, 93. (sfp, ) (Entered: 04/17/2012)